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Notice of Allowability

Application No.

10/780,240

Applicant(s)

FALCONER, MALCOLM I.

Examiner

Michael G. Bogart

Art Unit

3761

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to amendment dated 19 December 2005.
2. ☒ The allowed claim(s) is/are 1-12,24,25,30 and 33.
3. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☒ All b) ☐ Some* c) ☐ None of the:
 1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|--|--|
| 1. <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 6. <input type="checkbox"/> Interview Summary (PTO-413),
Paper No./Mail Date _____. |
| 3. <input checked="" type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date <u>21 Oct. 2005</u> | 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit
of Biological Material | 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9. <input type="checkbox"/> Other _____. |

EXAMINER'S AMENDMENT

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Stuart Krieger on 22 February 2006.

The application has been amended as follows:

Claim 30 depends from claim 1.

Cancel claims 35-37.

Information Disclosure Statement (IDS)

The documents listed in the IDS dated 17 February 2004 are/were considered in forms PTO-892 submitted 24 June 2005 and with this Office action and the IDS submitted by applicants on 19 December 2005.

Reasons for Allowance

The following is an examiner's statement of reasons for allowance:

The most relevant art of record are Eastman (EP 0 231 508 A2; US 4,681,574) and Leise, Jr. (US 4,938,750).

Eastman teaches an ostomy connector with circular (42) and corresponding non-circular (43) guidelines for cutting it to fit over the stoma of a wearer. Eastman does not teach a

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combination of a circular guideline and a non-circular guideline having a “race-track” shape. As defined by the specification, “race-track” shape refers to a shape having generally straight sides and rounded ends (see instant specification, page 4, lines 19 and 20). This specific non-circular elongated “race-track” shape is described as significant in the specification for accommodating a temporary fold in an ostomate’s intestines (page 4, lines 19-27; page 8, line 19-page 9, line 4). Eastman does not teach or suggest any sort of vent or filter.

Leise, Jr. teaches a filtered vent with a plurality of outlets and adhesive sticker closure means. Leise, Jr. fails to teach an ostomy connector with cutting guidelines.

Combining Eastman and Leise, Jr. does not teach or fairly suggest the “race-track” shaped guidelines as defined by the instant invention.

Regarding related patent to Falconer (US 6,709,421 B1), in the claims it does not teach or fairly suggest the “race-track” shape as defined and claimed by the instant invention.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled “Comments on Statement of Reasons for Allowance.”

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Bogart whose telephone number is (571) 272-4933.

In the event the examiner is not available, the Examiner’s supervisor, Tatyana Zalukaeva may be reached at phone number (571) 272-1115. The fax phone number for the organization

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where this application or proceeding is assigned is (571) 273-8300 for formal communications.

For informal communications, the direct fax to the Examiner is (571) 273-4933.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (571) 272-3700.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Michael Bogart
22 February 2006

TATYANA ZALUKAEVA
SUPERVISORY PRIMARY EXAMINER

